

**United States Department of Labor
Employees' Compensation Appeals Board**

SCOTT R. CHALMERS, Appellant

and

**U.S. POSTAL SERVICE, POST OFFICE,
Sioux Falls, SD, Employer**

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**Docket No. 03-1640
Issued: February 11, 2004**

Appearances:
Scott R. Chalmers, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

DAVID S. GERSON, Alternate Member
WILLIE T.C. THOMAS, Alternate Member
A. PETER KANJORSKI, Alternate Member

JURISDICTION

On June 18, 2003 appellant filed a timely appeal from the May 13, 2003 decision of the Office of Workers' Compensation Programs, which denied his claim for compensation benefits. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of appellant's claim.

ISSUE

The issue is whether appellant's right calf, ankle or foot condition is causally related to his July 16, 1998 employment injury.

FACTUAL HISTORY

On July 16, 1998 appellant, then a 48-year-old mail carrier, sustained an injury in the performance of duty when he stepped out of his postal vehicle, twisted his ankle and fell. He did not stop work. The Office accepted his claim for right ankle sprain.

On or about August 30, 2002 appellant submitted to the Office a medical bill for shoe orthotics. The Office advised that his record was destroyed because his injury was reported as a

minor no-lost-time injury, and his claim was closed for over two years. To reopen his claim, appellant would have to submit a notice of recurrence, a copy of the original claim and related documents and request that the Office recreate his record. To that end, the employing establishment submitted its file on appellant's claim. Appellant completed a notice of recurrence on October 15, 2002 and requested that the Office recreate his record.

Appellant stated that his problems began after the July 16, 1998 injury and never got much better. His ankle sometimes swelled after walking or prolonged standing. He lost strength and his foot hurt. When he fell down and injured his leg on July 16, 1998, his diagnosis was simply a sprained ankle. He filled out the forms and "let it go" for a couple of months, "as these type of injuries usually go away by themselves," but no attempt to fix the problem was successful. In April 2002 he saw a doctor who explained that the fall caused a torn muscle and that healing left scar tissue, which caused a pressure point. Appellant stated that walking and putting weight on his foot irritated the nerve, causing his ankle to feel sprained with some numbness, tingling and sometimes a black and blue color. Appellant added: "The pressure point on my calf doesn't bother me near as much as my ankle and foot." He noted that the doctor arranged a shoe fitting and prescribed stretching exercises. Because both of these helped, appellant was inclined to believe that this doctor's diagnosis was correct. Appellant stated that he never had the tingling, numbness and sprained-ankle feeling before this injury. He added: "At times my nerve is not bothered at all but the pressure point is always there and it still causes problems."

The Office instructed appellant to support his notice of recurrence with a detailed medical report from his attending physician:

"The report should include: dates of examination and treatment; history as given by you; findings; results of x-ray and laboratory tests; diagnosis; course of treatment; and the treatment plan. **The physician must also provide an opinion, with medical reasons, regarding causal relationship between your condition and the original injury.** Finally, the physician should describe your ability to perform your regular duties. If you are disabled for your regular work, the physician should identify the dates of disability and provide work tolerance limitations." (Emphasis in the original.)

In a decision dated May 13, 2003, the Office denied appellant's claim of recurrence. The Office found no medical documentation relating his current condition to the original injury. The Office noted that it was appellant's responsibility to advise of any change of address.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act¹ has the burden of proof to establish the essential elements of his claim by the weight of the evidence,² including that he sustained an injury in the performance of duty and that any specific condition or

¹ 5 U.S.C. §§ 8101-8193.

² *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

disability for work for which he claims compensation is causally related to that employment injury.³

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a causal connection between his current condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.⁴

ANALYSIS

Although the Office required appellant to file a claim of recurrence for the purpose of recreating his case record, appellant made clear that he was attributing his current calf, ankle and foot problems to a pressure point in his right calf, which his doctor told him had developed from a torn muscle on July 16, 1998. Appellant therefore has the burden of proof to establish not only that he has a pressure point in his right calf, but also that this pressure point is causally related to his July 16, 1998 employment injury. Additionally, appellant has the burden of establishing that his shoe orthotics, for which he seeks payment or reimbursement, are for the treatment of an employment-related injury or condition.⁵ The record on appeal contains no reasoned medical opinion to support appellant's assertion that a pressure point developed in his right calf as a result of his fall on July 16, 1998 and that he requires orthotics as a result. Appellant has not met his burden of proof.

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that the specific condition for which he claims compensation is causally related to his July 16, 1998 employment injury.

³ *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

⁴ *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

⁵ While the Office is obligated to pay for treatment of employment-related conditions, appellant has the burden of establishing that the expenditure is incurred for treatment of the effects of an employment-related injury or condition. *Mamie L. Morgan*, 41 ECAB 661, 667 (1990).

ORDER

IT IS HEREBY ORDERED THAT the May 13, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 11, 2004
Washington, DC

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member